IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 16926 of 2004

Between:

Pavithra Mahila Sangam Kothur, rep by its President, B.

Nagamma, Kothur Village, Kalyandurg Mandal, Anantapur

District.

..... PETITIONER

AND

Revenue Divisional Officer, Dharmavaram Division,

Anantapur District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, more particularly one in the nature of WRIT OF CERTIORARI, calling for records with regard to and in connection with the proceedings No. Rc. 1934/2004/F dated 8-9-2004 and quash the same.

Counsel for the Petitioner: KOTHAPALLI RAM MOHAN CHOWDARY

Counsel for the Respondent: GP FOR CIVIL SUPPLIES

The Court at the admission stage made the following :

ORDER:

The petitioner was appointed as a Dealer of Fair Price Shop at Kothur Village, Kalyandurg Mandal, Anantapur District, and the authorization was cancelled by the respondent through proceedings, dated 08.09.2004, on the allegation that the Fair Price Shop is being run benami and that the commodities are being sold at higher prices. The same is challenged in this writ petition.

Learned counsel for the petitioner submits that the respondent cancelled the authorization without issuing any notice and in contravention of Clause 5(4) of the A.P.State Public Distribution System Control Order, 2001(for short 'the Control Order').

Learned Government Pleader for Civil Supplies and learned counsel for the impleaded respondents, on the other hand, submit that the petitioner is only a temporary dealer and it is competent for the 1st respondent to cancel the authorization without issuing any notice.

The authorization of the petitioner was cancelled on the allegation that the Fair Price Shop is being run benami and the commodities were sold at higher prices. It is not preceded by any enquiry, much less a show-cause notice. Clause 5(4) of the Control Order mandates that before an authorization is suspended or cancelled, the appointing authority shall issue notice and conduct enquiry. The said Clause does not maintain any distinction between a permanent dealer and a temporary dealer.

Since the authorization of the petitioner was cancelled without issuing any notice, the impugned order is set aside on the short ground of violation of principles of natural justice and Clause 5(4) of the Control Order. It shall, however, be open to the 1st respondent to pass appropriate orders after issuing notice to the petitioner. The writ petition is accordingly allowed. There shall be no order as to costs.

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15.12.2004

Note: Issue C.C. by tomorrow

(B/o)

Jsu

To

1. Revenue Divisional Officer, Dharmavaram Division,

Anantapur District.

2 2CCs to the G.P. for Civil Supplies, High Court Buildings,

Hyderabad. (O.U.T)

3 2CD copies.